



MEMORANDUM

DATE: November 28, 2007
For December 13, 2007 Hearing

TO: Peter M. Gavin
Zoning Examiner

FROM: Albert Elias, AICP
Urban Planning & Design
Director

SUBJECT: REZONING – URBAN PLANNING AND DESIGN REPORT
C9-07-27 Heights Properties - Broadway Boulevard, SR to C-1 (Ward 2)

Issue – This is a request by Philip Veneziano, on behalf of the property owners, Heights Properties, to rezone approximately 3.04 acres from SR to C-1 zoning. The rezoning site is located at the southwest corner of Broadway Boulevard and Harrison Road (see Case Location Map). The preliminary development plan proposes four, one-story structures consisting of three restaurants and a bank with a total gross floor area of 12,508 square feet on 4.07 acres.

Department of Urban Planning and Design Recommendation – The Department of Urban Planning and Design recommends approval of C-1 zoning, subject to the attached preliminary conditions.

Background Information

Existing Land Use: Undeveloped

Surrounding Zones and Land Uses:

North: Zoned C-1, R-2, R-1; Fast-food restaurant, single-family residential, and proposed carwash facility (SE-07-18)

South: Zoned SR; Fire station and public middle school

East: Zoned C-1; Single-family residential and convenience store

West: Zoned SR; Public middle school and school bus facility

Previous Cases on the Property:

C9-03-09 Eckerd Drugs – Broadway Boulevard, SR/C-1 to C-2 This was a request to rezone approximately 2.6 acres from SR and C-1 to C-2 zoning for the development of a retail drug store. The application was determined to be incomplete and was rejected on May 2, 2003.

C9-03-21 Eckerd Drugs - Broadway Boulevard, SR/C-1 to C-2 This was a request to rezone approximately 2.6 acres from SR and C-1 to C-2 zoning to allow for a new 14,558 square foot

retail drug store with two drive-through lanes. The request to rezone was officially withdrawn on May 6, 2005 by the applicant.

Related Cases:

C9-00-11 Walgreen's – Houghton Road, SR to C-1 This was a request to rezone approximately 2.59 acres from SR to C-1 zoning for the development of a retail drug store. The rezoning site is located at the northeast corner of Houghton Road and Broadway Boulevard. On March 18, 2002, the Mayor and Council adopted Ordinance No. 9686 authorizing the rezoning. On May 3, 2002, building permit T02CM00284 was issued, effectuating the C-1 zoning.

C9-01-19 Cretcher Designs, LLC - Old Spanish Trail, SR to C-1 This was a request to rezone approximately 2.98 acres located at the northwest corner of Old Spanish Trail and Harrison Road to allow for a 30,984 square foot mixed retail and food service development. On May 13, 2002, the Mayor and Council voted 6 to 0 to authorize the applicant to proceed with the rezoning of the subject property from SR to C-1 zoning. On April 10, 2007, Mayor and Council granted a five year time extension and a change in Preliminary Development Plan to allow a 20,032 square foot - day care facility. On October 9, 2007, Mayor and Council adopted Ordinance No. 10459.

C9-01-30 Summit Development – Alverson Way, SR to C-1 This was a request to rezone approximately 6.07 acres located east of the Alverson Way alignment, between Kleindale Road and the Rillito River to allow for a 75,782 square foot administrative, professional, and medical offices development. On April 12, 2004, Mayor and Council adopted Ordinance No. 9947. On July 2, 2003, a plat was recorded effectuating the C-1 zoning.

C9-06-03 Larsen Baker – Golf Links Road, SR to C-1 This was a request to rezone approximately 18.73 acres located at the southwest corner of Golf Links and Houghton Road to allow for nine, one-story structures for a total of 120,600 square feet of office, financial services, restaurant and retail uses. On June 6, 2006 Mayor and Council voted 6 to 0 to authorize the applicant to proceed with the rezoning of the subject property from SR to C-1 zoning.

Applicant's Request – The applicant proposes to construct four, one-story structures to accommodate three restaurants and a bank on 4.07 acres.

Planning Considerations

Land use policy direction for this area is provided by the *Pantano East Area Plan (PEAP)* and the *General Plan*. Both *Plans* promote development that compliments adjacent land uses, and enhances the overall function and visual quality of the street, adjacent properties, and the community. The *PEAP* emphasizes that all future commercial developments are: restricted in the number of access points; integrated with adjacent commercial development, (i.e. cross access agreements and shared parking); designed in harmony with adjacent residential, and located along an arterial street.

The *PEAP* and *General Plan* policies encourage and support developments that respond to: the physical characteristics of the site and adjacent land use patterns; enhance the visual appeal of streets, and incorporate neighborhood recommendations onto the site planning and design.

The project site consists of two parcels located at the southwest corner of Broadway Boulevard and Harrison Road. Both parcels are proposed as one development site with an integrated preliminary development site design. The 1.03-acre parcel at the immediate southwest corner is currently zoned C-1 and is designated as the location for the proposed bank. The southern adjacent 3.04-acre parcel is zoned SR and will incorporate three fast-food restaurants that front Harrison Road. All four structures are proposed to include drive-thru service lanes, which have been oriented to operate without obstructing appropriate vehicle circulation. Hidden Hills Wash, a designated WASH Ordinance watercourse, borders the west property line. The uses immediately adjacent to the project site include a Tucson Unified School District bus parking facility located west of the wash and a Tucson Fire Station and public middle school to the south. North of Broadway Boulevard, the uses include a fast-food restaurant and single-family residential. East of Harrison Road, the uses include single-family residential and a convenience store which is located at the southeast corner of Broadway Boulevard and Harrison Road.

Vehicular access to the rezoning site is proposed from the north off of Broadway Boulevard and to the east off of Harrison Road. Both are roads classified as arterials on the Major Streets and Routes Plan and both have a future right-of-way width of 120 feet. One driveway provides access to the site from Broadway with a "right out only" restriction. Two driveway entrances are proposed off of Harrison with "right out only" restrictions as well. City of Tucson Transportation Access Management Guidelines restricts the number of access points off of major roadways to two points per (300') three hundred square-feet with the nearest pavement edge spaced at (80') eighty feet apart. In the vicinity of this project, both roadways have recently been constructed as part of the Harrison Road - Old Spanish Trail to Speedway project.

The Pima Association of Governments - Transportation Planning Division (PAG-TPD) estimates that the proposed development will generate 5,047 vehicle trips per day. Field inspection by staff indicates there are currently no billboards on the rezoning site.

The City of Tucson Fire Department has indicated that the proposed development will require additional water infrastructure including hydrants per IFC Section 508 as amended and Appendix B.

Design Considerations

Land Use Compatibility – The immediate area is developed with low to medium density residential and in need of neighborhood commercial services. The development site is located at the intersection of two major arterials and therefore is highly visible. The applicant proposes that the financial institution will utilize four-sided architecture, residentially scaled, in order to be compatible with the surrounding land uses. However, high quality facades should be provided on the rear and sides of all structures with attention given to architectural character and detail

comparable to the front façade. Scaled and colored elevations are to be provided with the submittal of a development plan to exhibit the use of five-sided architectural design. Light encroachment onto adjacent residential parcels and/or public roadways should be prevented. Future development plans will also need to demonstrate how the site will prevent over-illumination and glare, and avoid insufficient or uneven illumination, especially in areas where pedestrians and vehicles interact.

The orientation of the stacking spaces toward Harrison Road for the drive-thru lanes will require enhanced landscaping along the Harrison Road frontage to mitigate the visual impacts. Landscaping should be at the appropriate height and density to help screen the residential development to the east from head light glare as vehicles wait in the drive-thru lanes. Water harvesting techniques should be utilized around the perimeter and within parking landscape areas to help maximize water conservation. Signage, screens and landscaping should be designed to compliment each other and to help prevent future mature canopy trees from obstructing the visibility of business signs and being removed from street frontages.

WASH Ordinance – Hidden Hills Wash, a WASH Ordinance watercourse with a 100-year discharge of 1023 cfs, flows along the western boundary of the site. The floodplain width on this site varies from about forty feet (40') to two hundred feet (200'); the floodplain width generally narrows from south-to-north. The delineation of the top-of-bank alignment for Hidden Hills Wash is questionable. Field investigation has revealed the proposed top-of-bank location does not coincide with the topography and watercourse dynamics in several areas. This delineation is the basis for the 50' WASH study area and must be appropriately located. Changes to the study area boundary will likely change the site configuration.

The preliminary development plan (PDP) does not clearly indicate compliance with requirements relative to preservation of riparian habitat and shows substantial construction immediately adjacent to the edge of the 50' WASH study area that is proposed for 100% preservation. A construction buffer appears to be necessary, therefore the owner/developer will need to demonstrate why the 50-foot WASH resource area cannot be left in its natural condition as part of a special review per Sec. 23A-51., DSD full notice procedure. It is not reasonable to assume there will be no disturbance of the study area based on the configuration shown. This location is likely to necessitate construction-related incursions into the regulated area, which may affect Protected Riparian Areas. A Riparian Environmental Resource Report will be required to determine the extent any riparian habitat and if the proposed development is necessary. No unnecessary disturbance of riparian habitat is permitted.

The sensitive biological community of the wash should also be protected from the invasive buffelgrass. Every effort should be made to remove and prevent the spread or growth of buffelgrass within the wash area. The proposed landscape east of the wash is appropriate to enhance the site and to screen it from the existing uses to west of Hidden Hills Wash, however, it's important that the edge of the 50' WASH study area remain undisturbed and preserved in its natural state.

Drainage - Detention is not required however threshold retention will be required because this is a proposed commercial development, greater than one acre in size. Soils are Hydrologic Type B and have moderate permeability and slight erodibility.

The applicant's hydrology report states that the floodplain encroachment does not increase overbank velocities. The report makes no statement regarding channel velocities. Displacement of overbank flows often increases channel velocities. Any increase in the channel velocities will accelerate channel degradation, increase maintenance needs and increase potential damages to the habitat.

Trail Improvements - City of Tucson Parks and Recreation Department has requested specific improvements on this site. An irrevocable offer to dedicate an easement to the City for construction and public use of the Hidden Hills Wash Trail should be provided by the owner/developer. The easement will be bounded by the (50') fifty foot WASH setback line on the east side of Hidden Hills Wash and the west, north and south property lines of the development site. In addition, a contribution for construction of the Robb Wash Trail will be required.

Traffic/Vehicular Access/Circulation – Current PAG traffic counts estimates an average of 23,922 vehicles per day travel on Broadway Boulevard between Camino Seco and Harrison Road. Harrison Road, between Broadway Boulevard and 22nd Street currently carries an average of 15,390 vehicles per day. A Traffic Impact Analysis will be required as part of the development review process.

Access to the site is provided via three separate driveway entrances restricted to "right out only" exits. One driveway location is provided off of Broadway Boulevard with the remaining two located off of Harrison Road. The development plan will need to demonstrate that the driveway locations off of Harrison Road comply with the City of Tucson Transportation Access Management Guidelines restriction for access points off of major roadways. Vehicle circulation within the site is designed to operate in a counterclockwise motion. Drive-thru service lanes are located at the south end of the buildings and circulate in the same counterclockwise direction.

The proposed financial service and food services use will generate a significant amount of pedestrian and vehicular circulation within the project site. Enhanced pedestrian paths should be provided at key locations from the parking area and perimeter streets to the four building pads. The PDP conceptually demonstrates pedestrian walkways within the site and to the perimeter streets.

Zoning – The PDP indicates that the bank is proposed with four drive-thru lanes. The C-1 zone limits this number to no more than three, one of which is restricted to an automated teller machine (ATM) lane only. The PDP will need to be revised to reflect this Land Use Code (LUC) requirement. The PDP also displays the size of the loading zones for the bank and three restaurants as 10'x8'. A 10'x18' loading zone is required for the bank and a 12'x35' loading zone is required for each of the three restaurants. This will also need to be corrected and depicted on a revised PDP.

Conclusion – The proposed development is in compliance with the intent and pertinent policies of the *Pantano East Area Plan* and the *General Plan*. Approval of the requested C-1 zoning is appropriate subject to compliance with the attached preliminary conditions.

Preliminary Conditions

1. A consolidated development plan in substantial compliance with the preliminary development plan dated October 15, 2007, and the Design Compatibility Report, is to be submitted and approved in accordance with Section 4.1.1.5.3.8. of the *Land Use Code*.
2. The property owner shall execute a waiver of potential claims under A.R.S. Sec. 12-1134 for this zoning amendment as permitted by A.R.S. Sec. 12-1134 (I) in the form approved by the City Attorney and titled "Agreement to Waive Any Claims Against the City for Zoning Amendment".
3. A buffelgrass mitigation management plan shall be created for the site including the Hidden Hills Wash, before approval of the Native Plant preservation Plan portion of the development plan approval.
4. Site to provide a minimum of one pedestrian walkway connecting the arterial streets sidewalk to each building pad. The bank pad requires one from Broadway Boulevard and one from Harrison Road. Each of the three fast-food restaurant pads shall require one pedestrian walkway from Harrison Road. A pedestrian walkway is required between each of the three fast food pads. Each walkway shall be of distinguishable material such as; concrete pavers, scored or patterned colored concrete.
5. Water harvesting techniques shall be incorporated into the development in accordance with C.O.T. Water Harvesting Guidance Manual.
6. Owner/developer shall provide building elevations that show five-sided architectural design for all buildings on the development site. Side and rear building facades will have attention to architectural character and detail comparable to the front façade.
7. All outdoor lighting should be full cutoff, and shall be directed down and shielded away from adjacent parcels and public roadways. Lighting detail shall be submitted as part of the Development Plan.
8. Owner/developer shall provide landscape and/or screening to soften the visual impact of vehicle stacking areas for drive-through window lanes.
9. Dumpsters are to be screened and located a minimum of fifty feet from residential zones and uses.
10. Signage, screens and landscaping shall be designed to compliment each other and to help prevent future mature canopy trees from obstructing the visibility of business signs and being removed from street frontages.
13. The owner/developer shall obtain written documentation from the Pima County Regional Wastewater Reclamation Department that treatment and conveyance capacity is available for any new development within the rezoning area, no more than 90 days before submitting any tentative plat, development plan, sewer improvement plan or request for building permit for

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review. Should treatment and / or conveyance capacity not be available at that time, the owner / developer shall have the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the Pima County Regional Wastewater Reclamation Department.

14. The owner/developer shall time all new development within the rezoning area to coincide with the availability of treatment and conveyance capacity in the downstream public sewerage system.
15. The owner/developer shall connect all development within the rezoning area to Pima County's public sewer system at the location and in the manner specified by the Wastewater Management Department in its capacity response letter and as specified by the Development Services Department at the time of review of the tentative plat, development plan, sewer construction plan, or request for building permit.
16. The owner/developer shall fund, design and construct all off-site and on-site sewers necessary to serve the rezoning area, in the manner specified at the time of review of the tentative plat, development plan, sewer construction plan or request for building permit.
17. The owner/developer shall design and construct the off-site and on-site sewers to accommodate flow-through from any properties adjacent and up-gradient to the rezoning area that do not have adequate access to Pima County's public sewer system, in the manner specified at the time of review of the tentative plat, development plan, sewer construction plan or request for building permit.
18. The owner/developer shall also design and construct any necessary off-site sewers to accommodate the anticipated wastewater flow from any properties down-gradient from the rezoning area that can reasonably be served by those sewers, in the manner specified at the time of review of the tentative plat, development plan, sewer construction plan or request for building permit.
19. The owner/developer shall complete the construction of all necessary public and/or private sewerage facilities as required by all applicable agreements with Pima County, and all applicable regulations, including the Clean Water Act and those promulgated by ADEQ, before treatment and conveyance capacity in the downstream public sewerage system will be permanently committed for any new development within the rezoning area.
21. All walls visible from a public right-of-way and/or adjacent to existing residential development, are to be graffiti-resistant and incorporate one (1) or more visually appealing design treatments, such as the use of two (2) or more decorative materials like stucco, tile, stone, or brick; a visually interesting design on the wall surface; varied wall alignments, (jog, curve, notch, setback, etc.); and/or trees and shrubs in voids created by the wall variations.

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22. A Traffic Impact Analysis shall be submitted with the proposed development plan during the review process.
23. Owner/developer shall provide an irrevocable offer to dedicate an easement to the City for construction and public use of the Hidden Hills Wash Trail. The easement shall be bounded by the 50 ft wash setback line on the east side of Hidden Hills Wash and the west, north and south property lines of the subject parcel.
24. Owner/developer shall contribute \$16,000 for construction of the Robb Wash Trail.
25. The owner/developer shall submit a Riparian Environmental Resource Report with the proposed development plan.
26. Six (6) inch wide fence block or greater shall be used for perimeter walls.
27. Preparation of a complete Drainage Report, including details of detention/retention, is required. Should detention/retention be required, the following will apply:
 - a. Each detention/retention basin shall include a sediment trap, or other sediment control measures as approved by the City Engineer, to prevent sedimentation of the detention/retention basin. Each sediment trap, or other sediment control measure, shall have a provision for total drainage.
 - b. Detention/retention basin floors shall be graded to drain either toward the outlet structure or other logical point. Basin floors shall not be flat.
 - c. Detention/retention basins in or adjacent to the residential area shall be located adjacent to a street or accessible common area. Basin sideslopes in the adjacent area(s) shall be designed and constructed in accordance with the requirements of the Detention/Retention Manual for human activity zones.
 - d. Rectangular basin shapes shall be avoided unless necessitated by recreational or visual amenities within the basin.
 - e. Vegetation shall be used as screening and/or security barrier for a minimum of ten percent of the basin perimeter.
 - f. All security barriers and screening for detention/retention basins shall meet Safe By Design guidelines.
28. An archaeological assessment and survey shall be performed by a qualified archaeologist before any grading or other ground modification takes place. If cultural features or remains are found, testing and data recovery shall be completed as needed. Copies of testing plans, testing reports, data recovery plans and final reports shall be submitted to and approved by the City Historic

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Preservation Office prior to construction work commencing. If, during construction, human remains and/or associated burial items are discovered, ground disturbing activities in the vicinity of the discovery will cease, the discovery site will be secured, and the Arizona State Museum will be immediately notified as required under A. R. S. 41-865.

29. "Safe by Design" concepts shall be incorporated in the subdivision plat for review by the Tucson Police Department.
30. Any relocation, modification, etc., of existing utilities and/or public improvements necessitated by the proposed development shall be at no expense to the public.
31. Five years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of rezoning.

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AGREEMENT TO WAIVE ANY CLAIMS
AGAINST THE CITY FOR ZONING AMENDMENT

This agreement ("**Agreement**") is entered into between _____, as the owner of the property described herein ("**Owner**") and the City of Tucson ("**City**") to waive any and all claims for diminution of value that may be based upon action by the City in response to a request from the Owner. This Agreement is entered into in conformance with A.R.S. §12-1134(I).

The Owner is the holder of fee title to the property located at _____, Tucson, Arizona, (the "Property") which is more fully described in the Owner's application to the City in Case C9-07-27 and incorporated herein. The Owner, or the authorized agent of the Owner, has submitted an application to the City requesting that the City rezone the Property. The Owner has requested this action because the Owner has plans for the development of the Property that require the rezoning. The Owner believes that the rezoning of the Property will increase the value and development potential of the Property, and that this outweighs any rights or remedies that may be obtained under A.R.S. §12-1134 et. seq.

By signing this Agreement, the Owner waives any right or claim that may arise under A.R.S. §12-1134, including any claim for the reduction in the value of the Property, as a result of the enactment of the zoning amendment in Case C9-07-27.

The Owner understands that City staff may propose, the Zoning Examiner may recommend and the Mayor and Council may adopt conditions to the requested zoning that limit the potential development of the Property. The Owner acknowledges that the rezoning and conditions are a single, integrated legislative approval. The Owner agrees and consents to all conditions that may be imposed. The Owner retains the right to withdraw the rezoning application prior to a vote by the Mayor and Council or to decline to implement the necessary requirements to effectuate the zoning if the Owner disagrees with any conditions that are proposed or approved. If the Owner does not withdraw the application, the Owner shall be deemed to have accepted all adopted conditions to the requested zoning. If the Owner withdraws the application or does not effectuate the new zoning, this Agreement is null and void.

This Agreement is entered into in Arizona and will be construed and interpreted under the laws of the State of Arizona. The Owner has agreed to the form of this Agreement provided and approved by the City Attorney. The Owner has had the opportunity to consult with an attorney of the Owner's choice prior to entering this Agreement and enters it fully understanding that the Owner is waiving the rights and remedies as set forth herein.

Upon execution, this Agreement shall be recorded in the Office of the Pima County Recorder.

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The Owner warrants and represents that the person or persons listed herein as the Owner is/are the owner in fee title of the Property. The Owner further agrees to indemnify and hold the City of Tucson, its officers, employees and agents harmless from any and all claims, causes of action, demands, losses, costs and expenses based upon an alleged reduction of value of the Property as a result of the City's action in Case C9-07-27.

Dated this _____ day of _____, 20__.

OWNER

By: _____

Subscribed and sworn to before me this _____ day of _____, 200__.

Notary Public

My Commission expires:

City of Tucson, an Arizona municipal
Corporation

By: _____
Department of Urban Planning and Design

This form has been approved by the City Attorney.